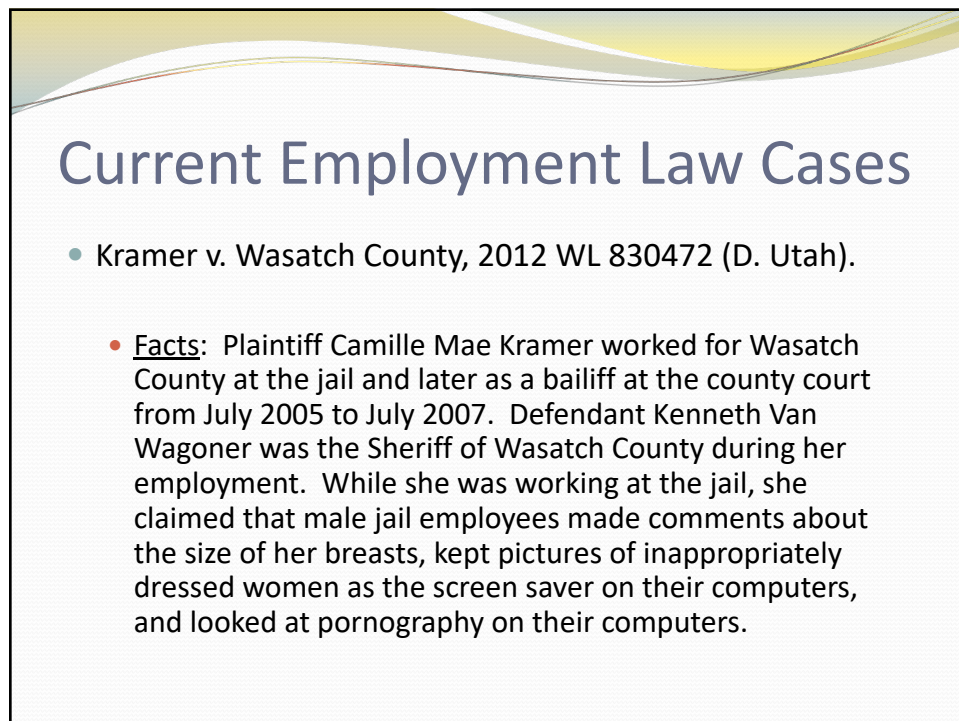


1



2

Current Employment Law Cases

- Kramer v. Wasatch County, 2012 WL 830472 (D. Utah).
 - The incidents on the computers were brought to the attention of Sheriff Wagoner by other employees, but Plaintiff did not report the comments about her breasts. Sheriff Wagoner disciplined the officer with pictures as his screen saver and fired the officer who viewed the pornography. Neither activity continued after it was brought to the attention of the Sheriff. Plaintiff also claimed that there was an unwritten policy for the county sheriff's office that female officers needed to have thick skin and let sexual harassment roll off their back or they would be fired or wouldn't receive backup when they needed it.

3

Current Employment Law Cases

- Kramer v. Wasatch County, 2012 WL 830472 (D. Utah).
 - Plaintiff claimed she was harassed by male and female employees alike when she got the job at the courthouse because they were jealous. At the courthouse, Plaintiff claimed that the harassment was even worse. She claimed she was sexually harassed by her supervisor. This harassment included her supervisor insisting that she give him foot massages and trying to kiss her, groping her and kissing her at his home, raping her in his home, when she had gone to his home to clean, and exposing himself to her when she visited him in the hospital after he had foot surgery.

4

Current Employment Law Cases

- Kramer v. Wasatch County, 2012 WL 830472 (D. Utah).
 - She claimed that after all four incidents, her supervisor told her not to tell anyone and threatened to get her fired through bad performance evaluations if she did. Plaintiff did not report any of these incidents to Sheriff Wagoner or anyone else until July 2007 when she told some coworkers when they visited her in her home after she had been involved in a car accident. Investigations into the accusations were immediately launched. After allegations arose against the plaintiff that she had a consensual sexual encounter with a Wasatch County Firefighter while he was on shift, Ms. Kramer quit her job and filed suit against the county and Sheriff Wagoner.

5

Current Employment Law Cases

- Kramer v. Wasatch County, 2012 WL 830472 (D. Utah).
 - Procedural History: Defendants filed a Motion for Summary Judgment, which the court originally denied because there were genuine disputes of material fact. However, the court reexamined the issues and factual record and granted summary judgment.
 - Issue: Is summary judgment appropriate upon an examination of the facts held in the light most favorable to the plaintiff?

6

Current Employment Law Cases

- Darvish v. Labor Commission Appeals Board, 273 P.3d 953 (UT app. 2012).
 - Facts: Darvish was an Iranian-born Persian of the Islamic faith. From 2002 to 2003 she worked for Salt Lake County as an inspector assigned to food establishments and swimming pools. She then left to work for the State of Utah as an industrial hygienist, but returned to the County as a health inspector in 2004.

7

Current Employment Law Cases

- Darvish v. Labor Commission Appeals Board, 273 P.3d 953 (UT app. 2012).
 - Not long after returning, plaintiff approached a lead inspector, Jeff Oaks, and asked him for a list of food establishments to inspect. Darvish's cubicle mate and co-worker, Jessie Morris, overheard the request and commented, "These Persians cannot come here and tell us what to do." Darvish reported the incident to her supervisor, Eric Peterson, and requested to be moved to another cubicle, transferred to a new team, and that Morris be educated about the impropriety of his comment.

8

Current Employment Law Cases

- *Darvish v. Labor Commission Appeals Board*, 273 P.3d 953 (UT app. 2012).
 - Peterson did not discipline Morris, and Plaintiff began to receive a series of disciplinary actions and low performance reports after the incident that she claimed was retaliation for her complaint and she threatened to file a retaliation complaint against Peterson. Knowing that his boss, Delegge, did not support firing Darvish, Peterson waited until Delegge was out of town and got permission to fire Darvish from another boss. Darvish filed a charge of discrimination with the Utah Antidiscrimination and Labor Division of the Labor Commission for retaliation against her based on her race, color, sex, religion, and national religion.

9

Current Employment Law Cases

- *Darvish v. Labor Commission Appeals Board*, 273 P.3d 953 (UT app. 2012).
 - Procedural History: The UALD found in favor of the plaintiff. The County requested a hearing before an ALJ who upheld the UALD decision. The county filed a motion for review before the Appeals Board of the Labor Commission. Initially, the Board unanimously upheld the ALJ's decision, but the county filed a request for reconsideration, citing *Clark County School District v. Breeden*, 532 U.S. 268 (2001) which provides insight into the term "reasonable belief" in the context of Title VII retaliation complaints.

10

Current Employment Law Cases

- Darvish v. Labor Commission Appeals Board, 273 P.3d 953 (UT app. 2012).
 - Based on the reasoning of that case, the Board concluded that “no reasonable person could believe that the conduct Ms. Darvish complained of constituted discriminatory conduct,” and consequently reversed its decision on a 2-1 vote.
 - Darvish appealed the decision of the Board.

11

Current Employment Law Cases

- Darvish v. Labor Commission Appeals Board, 273 P.3d 953 (UT app. 2012).
 - Issue: Did the Board lack jurisdiction to grant the County’s request for reconsideration?
 - Was Darvish fired because of either her participation in protected activity or her opposition to illegal activity?

12

Current Employment Law Cases

- Cabaness v. Thomas, 232 P.3d 486 (UT 2010).
 - Facts: Kipp Cabanes was an employee at Bountiful Power from March 1978 to January 2004. Cabanes claimed he was regularly harassed, insulted, and threatened by his supervisor, Brent Thomas, throughout the time that he worked for Bountiful Power, and he also witnessed Thomas do the same to his fellow employees. Thomas' supervisor was Clifford Michaelis.

13

Current Employment Law Cases

- Cabaness v. Thomas, 232 P. 3d 486 (UT 2010).
 - Cabanes also claimed that Thomas' actions caused stress so severe for Cabanes that he was diagnosed with major depression and chronic dysthymia with insomnia. Cabanes quit working for Bountiful Power in 2004 and brought action against Thomas and Michaelis for intentional infliction of emotional distress, a breach of contract claim against Bountiful Power for failure to enforce provisions of the Employee Manual, and a wrongful termination claim against Bountiful Power.

14

Current Employment Law Cases

- Cabaness v. Thomas, 232 P. 3d 486 (UT 2010).
 - Procedural History: The District Court entered summary judgment in favor of defendants. Plaintiff appealed the district court's grant of summary judgment.
 - Issue: Was the summary judgment correct for all of Plaintiff's causes of action?

15

Current Employment Law Cases

- Olsen v. Labor Commission, 249 P.3d 586
 - Facts: On Nov. 6, 1963, plaintiff, George Olsen, worked as a supervisor at Utah Concrete Pipe Co. when his arm was caught in a conveyor belt and amputated below the elbow while he was trying to clear some debris caught in one of the rollers. Plaintiff was back at work seven days later and except for a 6½ year period when he worked for a different company in California, plaintiff continued to work for Utah Concrete Pipe Co. until he retired in 1986. In 2006, plaintiff filed an application for hearing requesting permanent total disability benefits, claiming his 1963 industrial injury had caused him to be unable to work since the time of his retirement.

16

Current Employment Law Cases

- Olsen v. Labor Commission, 249 P.3d 586
 - Procedural History: An administrative law judge denied Olsen's claim. The Labor Commission upheld the ALJ's decision.
 - Issue: Were the Labor Commission's findings correct?

17

Current Employment Law Cases

- Nelson v. Orem City Department of Public Safety, 278 P.3d 1089 (Utah App. 2012).
 - Facts: Dennis Nelson was a police officer with the city of Orem for almost 15 years before he was fired for his alleged misconduct on the night of September 18, 2009. At nearly midnight, Plaintiff was requested to transport an individual, Brandon Fox, to the jail. When they arrived at the jail, Plaintiff ordered Fox to remove a bracelet from his wrist. Fox did so and dropped it to the ground stating, "It's all yours." He made no threatening movements or comments, but Fox did refuse to follow Plaintiff's order to pick up the bracelet.

18

Current Employment Law Cases

- Nelson v. Orem City Department of Public Safety, 278 P.3d 1089 (Utah App. 2012).
 - Plaintiff then pushed Fox through some doors and then threw Fox to the ground when Fox put up his arm to brace himself against the door frame. When Fox was thrown to the ground, he sustained a cut over his right eye that ultimately required two stitches. Plaintiff then straddled Fox while Fox was laying on his stomach and Plaintiff grabbed Fox's arm and pulled it up near Fox's head to control him.

19

Current Employment Law Cases

- Nelson v. Orem City Department of Public Safety, 278 P.3d 1089 (Utah App. 2012).
 - Throughout this time, Fox was not resisting. Plaintiff then called for medical assistance on his radio and moved his knee into Fox's back and brought his arm up higher toward his head. This action caused clear distress on Fox and he grunted and seemed to have a hard time breathing. The Plaintiff kept Fox in this position for 3 minutes and 42 seconds. The entire incident was caught on tape. Orem City investigated the incident and concluded that the use of force was inappropriate and Plaintiff was terminated.

20

Current Employment Law Cases

- Nelson v. Orem City Department of Public Safety, 278 P.3d 1089 (Utah App. 2012).
 - Procedural History: Plaintiff appealed the notice of intent to terminate his employment to the Orem Director of Public Safety who affirmed the decision to terminate. Plaintiff appealed to the Orem City Employee Appeals Board (the “Board”) and the Board confirmed the decision to terminate. Plaintiff appealed the Board’s decision.

21

Current Employment Law Cases

- Nelson v. Orem City Department of Public Safety, 278 P.3d 1089 (Utah App. 2012).
 - Issue: Did the Board improperly conclude that the Orem City Police Department’s (OCPD) sanction of termination was proportional to its use of excessive force charge?
 - Did the board err when it concluded that the OCPD’s sanction of termination was consistent with its prior sanctions of other employees?

22

Current Employment Law Cases

- National Federation of Independent Business v. Sebelius, 567 U.S. ____ (2012)